

Eric L. Cramer (admitted *pro hac vice*)
Michael Dell'Angelo (admitted *pro hac vice*)
Patrick F. Madden (admitted *pro hac vice*)
Najah Jacobs (admitted *pro hac vice*)
BERGER MONTAGUE PC
1818 Market St., Suite 3600
Philadelphia, PA 19103
Telephone: +1 (215) 875-3000
Email: ecramer@bm.net
Email: mdellangelo@bm.net
Email: pmadden@bm.net
Email: njacobs@bm.net

*Co-Lead Counsel for the Class and Attorneys for
Individual and Representative Plaintiffs*

[Additional Counsel Listed on Signature Page]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

**Cung Le, Nathan Quarry, Jon Fitch,
Brandon Vera, Luis Javier Vazquez, and
Kyle Kingsbury, on behalf of themselves
and all others similarly situated,**

Plaintiffs,

v.

**Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,**

Defendant.

No.: 2:15-cv-01045-RFB-BNW

**PLAINTIFFS' OPPOSITION TO
DEFENDANT ZUFFA LLC'S MOTION
TO CONSOLIDATE BRIEFING
SCHEDULE AND AMEND
SCHEDULING ORDER**

**Kajan Johnson and Clarence Dollaway, on
behalf of themselves and all others
similarly situated,**

Plaintiffs,

vs.

**Zuffa, LLC (d/b/a Ultimate Fighting
Championship and UFC) and Endeavor
Group Holdings, Inc.,**

Defendants.

No.: 2:21-cv-1189-RFB BNW

1 Defendant Zuffa, LLC (“Zuffa”) has filed two separate motions seeking to reopen
2 discovery in *Le v. Zuffa, LLC*, No. 15-1045, ECF Nos. 884 & 885 (D. Nev.). Even though
3 discovery closed in *Le* in January 2018 and the Court indicated in December 2020 that it would
4 certify the bout class in *Le*, Zuffa claims it had no obligation to seek this relief prior to August
5 2023. *See* Hrg. Tr., ECF No. 846, at 23; ECF No. 884 at 14-16. Even assuming that Zuffa did not
6 commence to prepare its discovery motions until after the status conference when Zuffa
7 discussed such motions with the Court, Hrg. Tr., ECF 846, at 25, Zuffa has had more than two
8 months to prepare them. Despite that, Zuffa now seeks to restrict Plaintiffs’ opportunity to
9 respond. The Court should reject Zuffa’s unfair proposal.

10 The Court set Plaintiffs’ current deadline for responding to Zuffa’s main motion to reopen
11 discovery (ECF No. 884) as November 21, 2023, four weeks after Zuffa filed it. *See* ECF No.
12 847. Plaintiffs have a deadline of November 9, 2023 to respond to Zuffa’s shorter but related
13 motion to treat discovery taken in *Johnson* as though taken in *Le* (ECF No. 885). *See Johnson v.*
14 *Zuffa, LLC*, ECF No. 82.

15 Following denial of Zuffa’s petition to the Ninth Circuit under Fed. R. Civ. P. 23(f), the
16 Court set a hearing on Zuffa’s motion to reopen discovery in *Le* for November 17, 2023. *See*
17 ECF No. 894. The hearing is now scheduled four days prior to Plaintiffs’ deadline to respond to
18 the motion to reopen discovery. As a result, Plaintiffs reached out to Zuffa to propose that
19 Plaintiffs would file an omnibus response to Zuffa’s two motions (ECF Nos. 884 and 885) by
20 November 13, 2023, and then Zuffa could submit an omnibus reply if it chooses prior to the
21 hearing. Plaintiffs explained to Zuffa that it would take longer for Plaintiffs to draft two separate
22 opposition briefs than it would to prepare a single consolidated opposition brief, and thus if Zuffa
23 did not agree to Plaintiffs’ proposal, Plaintiffs would have to file the second brief (in opposition
24 to the motion to reopen, ECF No. 884) after November 13, 2023 but in advance of the hearing.
25 Plaintiffs did not say, as Zuffa asserts, that they would wait to file their opposition brief one day
26 prior to the November 17 hearing. Instead, Plaintiffs said that it would take longer to prepare two
27 separate briefs, and thus that they could not predict now when that second brief (currently due
28

1 November 21) would be filed other than that it would be filed in advance of the hearing with
2 sufficient time for the Court to have an opportunity to consider it.

3 Despite submitting two briefs to the Court across 28 pages that Defendants had more than
4 two months to write, Zuffa refused Plaintiffs' offer and countered that Plaintiffs should file an
5 omnibus opposition by November 9. Zuffa has since insisted that November 10 be Plaintiffs
6 deadline and have filed the instant motion. Plaintiffs require more time to prepare a consolidated
7 brief than Zuffa's proposed one day past the deadline for Plaintiffs' 10-page opposition to Zuffa's
8 motion related motion to treat discovery taken in *Johnson* as though taken in *Le* (ECF No. 885).

9 Plaintiffs are, of course, ready, willing, and able to provide their briefing to the Court so
10 that it has time to consider Plaintiffs' position in advance of the Court's scheduled hearing.
11 However, Zuffa's proposal to force Plaintiffs to further condense their opposition timeline to
12 these two detailed briefs that Zuffa had two months to write would be unfair and unnecessary. As
13 a result, Plaintiffs propose either of the following briefing proposals:

- 14 (1) The Court adopt Plaintiffs' proposal to Zuffa: Plaintiffs may file an omnibus
15 opposition to Defendants' motions (ECF Nos. 884 & 885) by November 13, 2023.
16 Plaintiffs will have a 30-page limit for such brief. Defendants may file an omnibus
17 reply if they so choose of no more than 15 pages on or before November 15, 2023.
18 (2) The Court maintains the current schedule pursuant to which Plaintiffs will file, by
19 November 9, a 10-page opposition to Zuffa's motion to treat discovery taken in
20 *Johnson* as if it was also taken in *Le* (ECF No. 885), and Plaintiffs may file their
21 opposition to Zuffa's motion to reopen discovery in *Le* (ECF No. 884) on November
22 15, 2023.

23 Plaintiffs believe that the first option is fair to all parties. Plaintiffs believe it would be
24 inappropriate for Zuffa to force an even more condensed briefing timeline on Plaintiffs than the
25 Court's schedule requires, particularly given that Zuffa has already set out its position across two
26 briefs, that Plaintiffs have not yet had an opportunity to weigh in at all, and in light of the lengthy
27 time Zuffa has already had to prepare its motions.

1 DATED: November 6, 2023

Respectfully Submitted,

2 By: /s/ Eric L. Cramer
Eric L. Cramer (admitted *pro hac vice*)
3 Michael Dell'Angelo (admitted *pro hac vice*)
4 Patrick F. Madden (admitted *pro hac vice*)
Najah Jacobs (admitted *pro hac vice*)
5 BERGER MONTAGUE PC
1818 Market St., Suite 3600
6 Philadelphia, PA 19103
Telephone: +1 (215) 875-3000
7 Email: ecramer@bm.net
Email: mdellangelo@bm.net
8 Email: pmadden@bm.net
9 Email: njacobs@bm.net

10 Joshua P. Davis (admitted *pro hac vice*)
BERGER MONTAGUE PC
11 505 Montgomery Street, Suite 625
San Francisco, CA 94111
12 Telephone: +1 (415) 906-0684
13 Email: jdavis@bm.net

14 Richard A. Koffman (admitted *pro hac vice*)
Benjamin Brown (admitted *pro hac vice*)
15 Daniel Silverman (admitted *pro hac vice*)
COHEN MILSTEIN SELLERS & TOLL, PLLC
16 1100 New York Ave., N.W., Suite 500 East, Tower
Washington, DC 20005
17 Telephone: +1 (202) 408-4600
Facsimile: +1 (202) 408-4699
18 Email: rkoffman@cohenmilstein.com
Email: bbrown@cohenmilstein.com
19 Email: dsilverman@cohenmilstein.com

20 Joseph R. Saveri (admitted *pro hac vice*)
Kevin E. Rayhill (admitted *pro hac vice*)
21 JOSEPH SAVERI LAW FIRM, INC.
601 California St., Suite 1000
22 San Francisco, CA 94108
Telephone: +1 (415) 500-6800
23 Facsimile: +1 (415) 395-9940
Email: jsaveri@saverilawfirm.com
24 Email: krayhill@saverilawfirm.com

25 *Co-Lead Counsel for the Class and Attorneys for*
26 *Individual and Representative Plaintiffs*
27
28

1 Don Springmeyer (Bar No. 1021)
2 KEMP JONES, LLP
3 3800 Howard Hughes Parkway, 17th Floor
4 Las Vegas, Nevada 89169
5 Telephone: + 1 (702) 385-6000
6 Facsimile: + 1 (702) 385-6001
7 Email: dspringmeyer@kempjones.com

8 *Liaison Counsel for the Class and Attorneys for*
9 *Individual and Representative Plaintiffs*

10 Robert C. Maysey (admitted *pro hac vice*)
11 Jerome K. Elwell (admitted *pro hac vice*)
12 WARNER ANGLE HALLAM JACKSON &
13 FORMANEK PLC
14 2555 E. Camelback Road, Suite 800
15 Phoenix, AZ 85016
16 Telephone: +1 (602) 264-7101
17 Facsimile: +1 (602) 234-0419
18 Email: rmaysey@warnerangle.com
19 Email: jelwell@warnerangle.com

20 *Counsel for the Class and Attorneys for Individual and*
21 *Representative Plaintiffs.*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of November, 2023 a true and correct copy of Plaintiffs' Opposition to Defendant Zuffa LLC's Motion to Consolidate Briefing Schedule and Amend Scheduling Order was served via the District Court of Nevada's ECF system to all counsel of record who have enrolled in this ECF system.

By: /s/ Eric L. Cramer
Eric L. Cramer